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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/738,341

12/17/2003

Luc Lemmens

1316N-001643

9708

27572 7590 03/09/2007  
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EXAMINER

SCHWARTZ, CHRISTOPHER P

ART UNIT

PAPER NUMBER

3683

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/738,341

Applicant(s)

LEMMENS, LUC

Examiner

Christopher P. Schwartz

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

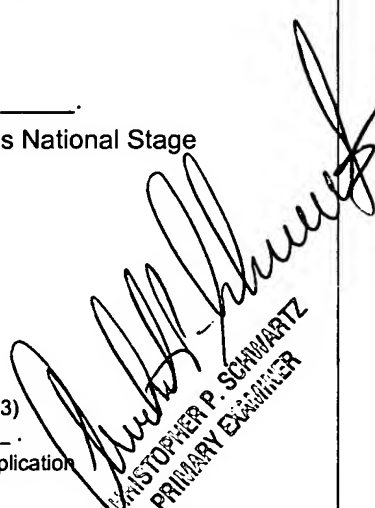
- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

  
CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/20/07 has been entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3,9,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Molina '239 in view of Wilkins et al. '871 and Buma et al. '554.

Regarding claims 1,18 De Molina '239 discloses a suspension damping system as clearly seen in figures 1 and 3 but lacks a specific discussion of a distance determining means between the unsprung portion and vehicle chassis. However, please see the discussion at the bottom of column 1 lines 60-67 over to the top of column 2. Note also that De Molina shows a valve at 48 "attached to" the shock absorber and being in direct communication with one of the springs 20. One of the other valves at 58 or 62 could also be used.

Notwithstanding this argument the reference to Wilkins et al. is relied upon to show that such a connection is old and well known in the art simply dependent upon the damping

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characteristics desired from the suspension system. See the valve arrangement at 93,94 and the air or gas spring 59,64.

The reference to Buma et al. is relied upon to teach such systems are notoriously well known in the art. Please see col. 4 last paragraph and elements 80-86. See also the top of column 5 lines 2-11.

From the teachings of the different methods of sensing vehicle height to control the level of damping in these references one having ordinary skill in the art at the time of the invention would have found it obvious to have modified the device of De Molina et al. with a height or distance sensor as taught by Buma to add an additional element of ride control to the vehicle. Such may be the case when the vehicle is expected to carry additional loads or to be used for towing applications. Applicant's newly claimed arrangement is simply an obvious alternative equivalent height sensing process to that taught by the references above.

Regarding claims 2,3,9 as can easily be seen in figures 1 and 3 of De Molina these requirements are met. Note the valve assembly at 110.

4. Claims 4-16 rejected under 35 U.S.C. 103(a) as being unpatentable over De Molina in view of Wilkins et al. and Buma as applied to claim 3 above, and further in view of either Heinz et al. or Patzenhauer et al. '885.

Regarding claim 4 De Molina, as modified above, lacks specifically showing the valve assembly 110 having open and closed positions through the interaction of elements 136 and 160, as discussed in col. 6.

However it would have been obvious to have either modified the valve accordingly such that the valve exhibited such characteristics at 136, 160 or to have modified the internals of the

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valve, as suggested by either Heinz or Patzenhauer such that the valve could be opened and closed upon specific pressure changes imparted thereto to regulate fluid flow between the chambers. Such an obvious modification would simply depend upon the ride characteristics desired from the shock absorber/suspension system.

The limitations of claims 5-8,10-16 are considered to be met in view of the modification and/or the combined teachings of the references above. Note the close similarity in the structure of the valves between applicant's and that of the pressure adjusting valve of Heinz. The valves of Heinz or Patzenhauer could be used as substitutes for that of de Molina.

#### ***Response to Arguments***

5. Applicant's arguments filed 2/20/07 have been fully considered but they are moot in view of the new grounds of rejection above.

#### ***Conclusion***

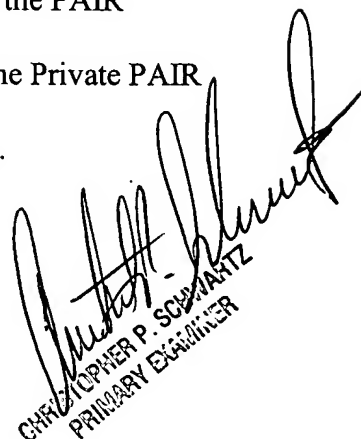
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Schwartz whose telephone number is 571-272-7123. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cps  
3/6/06



CHRISTOPHER P. SCHWARTZ  
PRIMARY EXAMINER